U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

May 14, 2008

BY HAND

The Honorable William H. Pauley III
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Borbon and Santana,
07 Cr. 986 (WHP)

Dear Judge Pauley:

The Government respectfully submits this letter in response to defendant Raul Borbon's motion to suppress the physical evidence recovered by officers of the New York City Police Department ("NYPD") in connection with the defendant's arrest on May 19, 2007, and subsequent indictment for unlawful manufacture and distribution of a controlled substance. The defendant moves to suppress [1] the physical evidence seized from his apartment because [a] the search was warrantless, and/or [b] the pertinent search warrant was false and misleading; and [2] "all statements made by the defendants" if made without proper Miranda warnings. For the reasons to follow, the defendant's motions are meritless and should be summarily denied without any evidentiary hearing.[1]

Background

On or about May 18, 2007, officers of the NYPD were patrolling in the vicinity of 2244 Creston Avenue. Upon arriving at 2244 Creston, the officers questioned defendant Santana, pursuant to "Operation Clean Halls," which permits NYPD Officers to stop and question any person entering or leaving such a "Clean Halls" building to verify that person is there for a legitimate

[1] Defendant Johans Santana joins none of Borbon's motions. (See Letter of Dawn Cardi, Esq. dated May 12, 2008).

purpose. (See Sealed Complaint dated June 7, 2007 ("Compl."), ¶ 2). Santana told the Officers that he had just left Borbon's apartment (6B), and the Officers went upstairs to verify that Santana was entitled to be in the building. (Id.). Two of the Officers proceeded to Borbon's apartment to verify the statements of Santana. One of these Officers was Police Officer Kurt Maier.

Upon arriving at Borbon's apartment, Officer Maier smelled a strong odor of marijuana coming from the defendant's apartment. (See Affidavit of Police Officer Kurt Maier dated May 19, 2007 ("Maier Aff."), at 3). The Officers knocked on Borbon's door, and Borbon opened it. (Id.). Officer Maier again smelled marijuana coming out of the defendant's apartment. (Id.). With the apartment door ajar, Officer Maier saw several large bags of Miracle-Gro, several black bags containing stalks of marijuana plants, and books relating to "How to Grow Marijuana." (Maier Aff. at 3; Compl.. ¶ 4 (b)). Having observed the presence of an illegal drug operation, the Officers entered Borbon's apartment, inside of which they observed more items related to the narcotics trade, including mylar sheeting taped to the walls, industrial air ducts, pots of dirt, 166 marijuana plants, lighting systems, scales and various timers. (Maier Aff. at 3; Compl. ¶ 4(c)-(f)).

During this interaction with the Officers, Borbon stated that there was a firearm inside his apartment. (Maier Aff. at 3). And, indeed, there was -- the Officers observed a loaded .22 caliber Beretta firearm, complete with a gun cleaning kit, several rounds of live ammunition, and a bulletproof vest liner within the premise. (Compl. ¶ 4 (f); NYPD Property Vouchers dated May 19, 2007 attached hereto.)

Thereafter the Officers secured Borbon's apartment, obtained a search warrant for Borbon's apartment from the Honorable Megan Tallmer, Bronx Criminal Court, and returned shortly thereafter to seize the above-mentioned evidence. The defendant was placed under arrest.

The defendant is presently at liberty on bail.

Discussion

Defendant Borbon asserts that, in connection with Officer Maier's application for the search warrant of Borbon's apartment, Officer Maier knowingly and/or recklessly withheld material information from the Honorable Megan Tallmer of the Criminal Court of Bronx County concerning: [1] his being "on patrol"; [2] his failure to tell the Judge "why" he was inside the defendant's apartment; [3] his ability (or lack thereof) to smell marijuana emanating from the defendant's apartment; [4] what Officer Maier could "really" see while standing outside the front door to the defendant's apartment. (See Def Mem. at 10-12). Because of these omissions, the defendant argues, the search warrant is invalid and the evidence obtained from the search should be suppressed.[2] Defendant's arguments are without merit and should be rejected.

A. Defendant Borbon Has Failed to Make a Substantial Preliminary Showing that P.O. Maier Made a False Statement Knowingly and Intentionally, or with Reckless Disregard for the Truth, and that that Statement was Necessary to a Finding of Probable Cause To Warrant a *Franks* Hearing

1. Applicable Law

In Franks, the Supreme Court held that, "where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held." Franks, 438 U.S. at 155-56. "The Franks standard is a high one." Rivera v. United States, 928 F.2d 592, 604 (2d Cir. 1991). Because "[t]here is, of course, a presumption of validity with respect to [an] affidavit supporting [a] search warrant, [t]o mandate an evidentiary hearing, the challenger's attack must be more than conclusory and must be supported by more than a mere desire to cross-examine." Franks, 438 U.S. at 171. It is not sufficient to allege negligence or innocent mistake. Id. Furthermore, "[e]very statement in a warrant affidavit does not have to be true." United States v.

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[2] While the defendant does not specifically demand a Franks hearing, the Government responds as if he does.

Canfield, 212 F.3d 713, 717 (2d Cir. 2000) (internal quotation marks omitted). Rather, to obtain a Franks hearing, a defendant must make a substantial preliminary showing that: (1) the warrant affidavit contains a false statement or material omission that makes the affidavit misleading; (2) the false statement or material omission was the result of the affiant's deliberate falsehood or reckless disregard for the truth; and (3) the false statement or material omission was integral or necessary to the judge's probable cause finding. See, e.g., Franks, 438 U.S. at 171; United States v. Martin, 426 F.3d 68, 73 (2d Cir. 2005); United States v. Singh, 390 F.3d 168, 183 (2d Cir. 2004); United States v. Awadallah, 349 F.3d 42, 64 (2d Cir. 2003); Canfield, 212 F.3d at 717-18; United States v. Salameh, 152 F.3d 88, 113 (2d Cir. 1998); United States v. Campino, 890 F.2d 588, 591-92 (2d Cir. 1989) (affirming trial court's denial of Franks hearing "because appellants failed to produce evidence of deliberate falsehood or recklessness in the affidavit."). Allegations of deliberate falsehood or of reckless disregard for the truth

> must be accompanied by an offer of proof. They should point out specifically the portion of the warrant affidavit that is claimed to be false; and they should be accompanied by a statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient.

Franks, 438 U.S. at 171 (emphasis supplied); see also Singh, 390 F.3d at 183-84 ("conjecture" concerning intentional or reckless omission of information from affidavit not sufficient to warrant a hearing).

Omissions are less likely to present "'a question of impermissible official conduct'" because allegations of omissions may result in "'endless conjecture about investigative leads, fragments of information, or other matters that might . . . have redounded to defendant's benefit'" had they been included." United States v. Lopez, No. 96 Cr. 105 (RSP), 1997 WL 567937, at *2 (N.D.N.Y. Sept. 11, 1997) (quoting United States v. Atkin, 107 F.3d 1213, 1217 (6th Cir. 1997)). "[T]he mere intent to exclude information is insufficient." Awadallah, 349 F.3d at 67-68 (citing United States v. Colkley, 899 F.2d 297, 300-01 (4th Cir. 1990)). As the Fourth Circuit stated in Colkley:

> An affiant cannot be expected to include in an affidavit every piece of information gathered in the course of an investigation. However, every decision not to include certain information in the affidavit is 'intentional' insofar as it is made knowingly. If . . . this type of 'intentional' omission is all that Franks requires, the Franks intent prerequisite would be satisfied in almost every case . . . . [Rather,] Franks protects against omissions that are designed to mislead, or that are made in reckless disregard of whether they would mislead, the magistrate.

Colkley, 899 F.2d at 300-01 (emphases in original). As the Eighth Circuit has noted, "[r]arely will an unintentional omission be grounds for Franks v. Delaware relief when complex economic crimes are the subject of the investigation. In such cases, unless the government has lied to the issuing judge, the suppression issue should turn on what was in the government's affidavits, not on what defendants assert with the benefit of hindsight the government should have known." United States v. Ozar, 50 F.3d 1440, 1445-46 (8th Cir. 1995).

"To prove reckless disregard for the truth, the defendant must prove that the affiant 'in fact entertained serious doubts as to the truth' of the allegations." United States v. Ranney, 298 F.3d 74, 78 (1st Cir. 2002) (quoting United States v. Williams, 737 F.2d 594, 602 (7th Cir. 1984) (citing United States v. Davis, 617 F.2d 677, 694 (D.C. Cir. 1979) (holding that the First Amendment definition should be applied by analogy in the Franks setting))); Beard v. City of Northglenn, 24 F.3d 110, 116 (10th Cir. 1994) (same)); see United States v. Whitley, 249 F.3d 614, 621 (7th Cir. 2001) (citation omitted); United States v. Millar, 79 F.3d 338, 342-43 (2d Cir. 1996) (upholding denial of Franks hearing where there was no evidence of "deliberate prevarication"); United States v. Rivera, 728 F. Supp. 250, 258 (S.D.N.Y. 1990) (Mukasey, J.), ("If [the affiant] made statements which failed to take account of the facts as he knew them, or which he seriously doubted were true, that would show reckless disregard for the truth.") (emphasis added), vacated on other grounds. "Because states of mind must be proved circumstantially, a fact finder may infer reckless disregard from circumstances evincing obvious reasons to doubt the veracity of the allegations." United States v. Perez, 247 F. Supp. 2d 459,

473 (S.D.N.Y. 2003) (quoting United States v. Whitley, 249 F.3d 614, 620 (7th Cir. 2001)). "'Allegations that amount to negligence or innocent mistake do not constitute the required showing. The focus is not on whether a mistake was made, but rather the intention behind the mistake.'" United States v. Cook, 348 F. Supp. 2d 22, 29 (S.D.N.Y. 2004) (citing United States v. Markey, 131 F. Supp. 2d 316, 324 (D. Conn. 2001)).

The law is also well-established that simple failure to fully investigate is not sufficient for the required showing of reckless disregard. In Ranney, for example, the First Circuit upheld the denial of a Franks hearing where the warrant affidavit incorrectly stated that a company involved in telemarketing fraud did not have access to a supplier's patented products, thereby precluding the company involved in the fraud from acquiring those products from another supplier. Defendants claimed that the affiant should have checked to see whether the information that the company employee had supplied about the supplier's alleged patent was, in fact, correct. The Court held that, "[a]lthough [the affiant] could have made such an investigation, defendants have shown no circumstances indicating that he had reason to doubt the patent's existence. Under the circumstances, his failure to probe further does not amount to reckless disregard." Ranney, 298 F.3d at 78.

Similarly, in United States v. Dale, 991 F.2d 819 (D.C. Cir. 1993), the court held that, "in general, the failure to investigate fully is not evidence of an affiant's reckless disregard for the truth." Id. at 844 (citing United States v. Miller, 753 F.2d 1475, 1478 (9th Cir. 1985); United States v. Mastroianni, 749 F.2d 900, 909-10 (1st Cir. 1984); United States v. Young Buffalo, 591 F.2d 506, 510 (9th Cir. 1979)). In Dale, the court observed that, "probable cause 'does not require an officer to exhaust every possible lead, interview all potential witnesses, and accumulate overwhelming corroborative evidence.'" Dale, 991 F.2d at 844 (quoting the lower court's ruling). The Dale court further noted that the failure of the affiant to contact individuals who had a business relationship with the subjects of the investigation in an effort to corroborate information contained in the affidavit "may have been entirely prudent given the possibility of a leak" to the subjects' corporation. Id. The court concluded, "[r]ather than evincing a reckless disregard for the truth, the agent's actions amounted to at most negligence which is insufficient to warrant a Franks hearing." Id. (citing Franks, 438 U.S. at 171) (emphasis in original). Likewise, in Miller, the court held that the affiant

did not act with reckless disregard for the truth when he failed to uncover a confidential informant's prior conviction for perjury. Miller, 753 F.2d at 1478 (although "[i]t might have been prudent for the federal agents to check on [a confidential informant's] background and criminal record, [] their failure to do so is not reckless disregard.").

In Young Buffalo, the defendant asserted that an affiant exhibited a reckless disregard for the truth when he included information in a warrant affidavit alleging that the defendant possessed a motorcycle and car similar to vehicles used by a robber matching the defendant's description to flee the scene of his crimes, without conducting further investigation when he knew that the defendant's motorcycle had been in an accident prior to the robbery in question, and even though investigation would have revealed that: (1) the motorcycle had been destroyed in that accident, and (2) the description of the get away car (white over maroon) was the inverse of the description of the car the defendant had rented. Young Buffalo, 591 F.2d at 510. The Court found that, "[the affiant's] knowledge of the motorcycle accident raised no duty to inquire further. Appellant's ownership of the motorcycle was just one of many facts linking him to the robberies and failure to investigate all details showed no reckless disregard for the truth. Even if we were to find that the information possessed by [the affiant] was enough to create a duty of further inquiry, these assertions at best raise the possibility of negligence on his part." Id. at 510 & n. 6.

2. Discussion

The defendant makes sweeping, unsupported, conclusory allegations about Officer Maier's knowledge -- the kinds of assertions that cannot serve as the basis for granting a motion for a Franks hearing. See, e.g., Franks, 438 U.S. at 171; Singh, 390 F.3d 183.

First, defendant's self-serving statements that his ventilation system made it "impossible for the police to have smelled marijuana . . . [b]ecause of the ventilation system inside my apartment was set up to expel any odor outside of the apartment building" and "[s]ince I had the lights off inside the apartment both times that I answered the door, the police could not have seen inside the apartment" have no bearing on the facts before Judge Tallmer as sworn to by Officer Maier. (See Aff. of Raul Borbon dated May 5, 2008 (attached to Def. Mem.) ¶¶ 9-11).

And the defendant's wide-sweeping statements are founded upon nothing concrete other than the defendant's own ipse dixit. Judge Tallmer credited what Officer Maier smelled and saw, and granted a search warrant based (in part) on those observations.

Second, the defendant's reliance on certain facts he styles as "misrepresentations" is an exaggerated red herring. Specifically, the defendant contends that Officer Maier did not tell the Judge "why" he was inside the defendant's apartment (Br. 11) and, therefore, exhibited a "reckless disregard" for the truth. Similarly, he asserts that Officer Maier should have told Judge Tallmer "why" he was outside Borbon's apartment. (Br. 11). Neither of defendant's purported examples are misrepresentations. Officer Maier did lie about why he was at 2244 Creston; and he certainly did not mislead the Court. If anything, the facts on which the defendant relies were immaterial omissions that do not come close to calling into question the validity of the search warrant. See Canfield, 212 F.3d at 717 ("Every statement in a warrant affidavit does not have to be true."); Ozar, 50 F.3d at 1445-46 (stating that unintentional omissions are rarely grounds for Franks relief, unless the government has lied to the issuing judge).

Third, the defendant makes several assertions that are unsupported by an individual with personal knowledge. For example, contrary to the defendant's assertions (Br. 11), Officer Maier was "on patrol" in the vicinity of 2244 Creston Avenue. (See Sealed Complaint sworn to by Det. Manuel Madera dated June 7, 2007, ¶ 2 ("On or about May 18, 2007, three NYPD Officers were patrolling in or around 2244 Creston Avenue . . .").

In sum, the defendant's attack is nothing more than conclusory and represents a desire to cross-examine in advance of trial. Accordingly, because the defendant has failed to make any preliminary showing that warrant affidavit contains a false statement or material omission that makes the affidavit misleading; the false statement or material omission was the result of the affiant's deliberate falsehood or reckless disregard for the truth; and the false statement or material omission was integral or necessary to the judge's probable cause finding, defendant's motion for a Franks hearing should be denied.

B. The Defendant's Arguments Regarding a Warrantless Search are Irrelevant

The Court should summarily reject the defendant's argument that suppression of all the physical evidence is warranted because of a warrantless entry. Here, there was a lawfully issued search warrant.

C. Defendant Borbon's Motion to Suppress "Any Statements Made" Is Easily Dismissed

The defendant next moves to suppress "any" statements taken in violation of Miranda, and argues for suppression based on a purported Miranda violation and the Wong Son doctrine. (Def. Mem. 14). This motion is also meritless.

1. Applicable Law

It is well-settled that a defendant who moves to suppress evidence is not entitled to an evidentiary hearing unless he supports his motion with "moving papers [that] are sufficiently definite, specific, detailed, and nonconjectural to enable the court to conclude that contested issues of fact going to the validity of the search are in question." United States v. Pena, 961 F.2d 333, 339 (2d Cir. 1992); see also United States v. Roberts, No. 01 Cr. 410, 2001 WL 1602123, *10 (S.D.N.Y. Dec. 14, 2001) (well-settled that defendant is not entitled to hearing simply on filing of motion alleging violation of constitutional rights because motion must be supported by factual basis for alleged violations); United States v. Urena-Pere, No. 91 Cr. 964, 1992 WL 17977, *1 (S.D.N.Y. Jan. 24, 1992) (noting that evidentiary hearing is only required when factual dispute exists and recognizing that in order to create factual dispute, defendant must submit sworn factual allegations from an affiant with personal knowledge); United States v. Viscioso, 711 F. Supp. 740, 745 (S.D.N.Y. 1989) (noting that defendant only has right to a suppression hearing when disputed issues of material fact are shown); United States v. Jailall, No. 00 Cr. 069, 2000 WL 1368055, *8 (S.D.N.Y. Sept. 20, 2000) ("A defendant is not automatically entitled to a suppression hearing. The defendant must show that disputed issues of material fact exist that require an evidentiary hearing."); United States v. Belin, No. 99 Cr. 214, 2000 WL 679138, *5 (S.D.N.Y. May 24, 2000) (denying motion and request for hearing where defendant failed to submit affidavit containing factual allegations).

Further, it is well settled that a defendant's spontaneous statements "given freely and voluntarily with any compelling influence" are admissible nothwithstanding the absence of Miranda warnings. United States v. Compton, 428 F. 2d 18, 22 (2d Cir. 1970) (quoting Miranda v. Arizona, 384 U.S. 436, 478 (1966). Indeed "[v]olunteered statements of any kind are not barred by the Fifth Amendment." Miranda, 384 U.S. at 478. See also United States v. Vigo, 487 F. 2d 295 (2d Cir. 1973) (voluntary statement before *Miranda* warnings completely read admissible). And a statement given by a defendant that is not in response to questioning can only be suppressed for failure to provide Miranda warnings where the statement was made in response to the "functional equivalent" of interrogation. In Rhode Island v. Innis, 446 U.S. 291 (1980), the Supreme Court affirmed that Miranda was limited to statements in response to interrogation, and held that a defendant is not "interrogated" by law enforcement unless directly questioned by officers or subject to its "functional equivalent," defined as being subject to statements or actions by law enforcement "reasonably likely to evoke an incriminating response." Id. at 301.[3]

Following Innis, the Second Circuit has affirmed that volunteered statements that are not the product of questioning or its "functional equivalent" are admissible regardless of Miranda warnings. See United States v. Gelzer, 50 F.3d 1133, 1138 (2d Cir. 1995) (affirming district court's decision not to suppress volunteered statement). See also United States v. Grayson, 2005 WL 1560478 (S.D.N.Y. 2005) (Patterson, J.) (suppression not warranted where defendant did not contradict officer's claim that statement was spontaneous); United States v. Medina, 1998 WL 241724, *5 (S.D.N.Y. 1998) (Scheindlin, J.) (officer's comment that seized bag contained "a lot of money" not functional equivalent of interrogation); United States v. Heatley, 994 F. Supp. 475, 477 (S.D.N.Y. 1998) (Sotomayor, J.) (police comment arguably implying case against defendant was strong held not to constitute interrogation). Here, there is no record evidence or

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[3] As examples of tactics "reasonably likely to evoke an incriminating response," the Supreme Court offered situations in which law enforcement engaged "witnesses" to falsely identify the defendant in a line-up or accuse the defendant of a fictitious crime in the hopes of prompting a confession to the crime under investigation. Id. at 291.

suggestion that the defendant was "interrogated" when he gave the above-statements.

2. Discussion

Motions to suppress must be definite and specific. The defendant's is not. His affidavit and motions papers fail to put any material fact at issue relevant to his statements through a sworn affidavit of an individual with personal knowledge. Rather, the defendant merely states that "[t]here is no doubt that Borbon was in custody when he allegedly made this statement for which the officers should have first advised BORBON of his Miranda warnings." (Def. Mem. at 14). But the defendant's affidavit makes no mention of his being "in custody" or whether he had or had not been apprised of his Miranda rights. Without more the defendant has put no material fact at issue regarding any specific statement to warrant any hearing.

Moreover, the defendant's vague assertion that he was "in custody" is belied by the sworn testimony Officer Maier gave to Judge Tallmer in connection with his application for the search warrant:

> THE COURT: So what does that mean that he stated in sum and substance that he, meaning [Borbon] believes there is a semi-automatic fire arm?
>
> OFFICER MAIER: Yes, your Honor.
>
> THE COURT: I don't understand that an occupant of the apartment who . . . supposedly is growing marijuana believes that there is a semi-automatic fire arm, how did you come in possession of that information?
>
> OFFICER MAIER: I asked if there was anything harmful in the apartment?
>
> THE COURT: Was he arrested?
>
> OFFICER MAIER: Detained, not arrested.

(Application for a Search Warrant for 2244 Creston Avenue, Apartment 6B, Bronx, New York, May 19, 2007 (attached as Exh. F. to Def. Mem.) (emphasis supplied)).

For these reasons, defendant's motion to suppress "any" statements should be denied without an evidentiary hearing.

D. The Government Has Complied with Its Rule 16 Discovery Obligations

The Government understands and embraces its Rule 16 obligations, and has complied with them -- and more. Indeed, the Government made its preliminary Rule 16 disclosure early; and it has made supplemental Rule 16 disclosures as discoverable material was within the Government's control and/or the Government became aware of the material's existence, consistent with its continuing discovery obligations. See Rule 16(c), Fed. R. Crim. P. Consistent with that continuing obligation, the Government will, if it obtains additional evidence, supplement its production of material required by Rule 16(a)(1)(A) and any other provision of Rule 16, for that matter.

Conclusion

For the reasons set forth above, defendant's motions to suppress should be summarily denied without any evidentiary hearnig.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By: _____
Benjamin A. Naftalis
Assistant United States Attorney
(212) 637-2456

cc: James Lenihan, Esq.
Dawn Cardi, Esq.

PD 521-141 (Rev. 5/01)-Pent

PROPERTY CLERK'S INVOICE

N 672112

Check only one of the below categories.

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 05-19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
Maier	PO	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
Borbon, Raul N.		38	598 W. 191 St. NY NY #45	1	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.O.	Viol.	Complaint No.
05-18-07	B07640198	8R CPW, CPM	☒	☐	☐	☐	06459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
A/O	2120 Ryer Ave BX NY	
Owner's Name (See Instructions)	Address (Include City, State, Zip Code, Apt.)	Telephone No.
Borbon, Raul N.	598 W. 191 St NY NY #45	
Complainant's Name	Address (Include City, State, Zip Code, Apt.)	Telephone No.
PSNY		

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	7	Miracle-Gro 2.5 Cu FT potting mix bags		
~~X~~		~~above is complete list of items vouchered~~ XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX		
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

N672115, N672116, N672117, N672118

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time Property Clerk Storage Location

REMARKS. *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY).*

Arrest evidence held in PSS# C622697.

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
[redacted]	[redacted]	[redacted]	

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY:	Rank	Name	Command
Property Clerk's Signature			

N 672112

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev 5/01)-Pent

Check only one of the below categories.

N 672111

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 5-19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
Maier	PO	[redacted]	[redacted]	046

Prisoner's Last Name, First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
Borbon, Raul N.	38	598 W. 191 St Ny Ny 10040	1	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
5-18-07	B07640198B	CPM CPW	☒	☐	☐	☐	06459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
A/O	2120 Ryer Ave BX NY	

Owner's Name (See Instructions)	Address (Include City, State, Zip Code, Apt.)	Telephone No.
Borbon, Raul N.	598 W. 191 St NY NY 10040	

Complainant's Name	Address (Include City, State, Zip Code, Apt.)	Telephone No.
PSNY		

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	1	Clear bag containing approx 166 marijuana plants		
XXXXXXXXXAbove is complete list of items voucheredXXXXXXXXXXXXXXXXXXXXXXXXXX				
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

N672112, N672113, N672114, N672123, X

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time

Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY).*

Arrest evidence held in clear plastic bag with peddler seal# 0942778.

Rank and Signature of Desk Officer | Tax No. [redacted] | Signature of Arresting/Assigned Officer | Boro Storage No.

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY: | Rank | Name | Command

Property Clerk's Signature

N 672111

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev 5/01)-Pent

N 672113

Check only one of the below categories.

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 5-19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
Maier	PO	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
Borbon,	Raul N.	38	598 W. 191 St NY NY #45	1	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
5-18-07	B07640198	PL CPW CPM	XX	☐	☐	☐	06459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
A/O	2120 Ryer Ave Bx NY	
Owner's Name (See Instructions)	**Address (Include City, State, Zip Code, Apt.)**	**Telephone No.**
Borbon, Raul N.	598 W. 191 St NY NY #45	
Complainant's Name	**Address (Include City, State, Zip Code, Apt.)**	**Telephone No.**
PSNY		

ITEM NO	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	2	fertilizer bottles		
02	7	marijuana growing books		
03	1	black plastic bag that contained 22 cal firearm and live rnds		
04	1	tan electronic scale		
XXXXAbove is complete list of items voucheredXXXXXXXXXXXXXXXXXXXXXXXXXXX				
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time

Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY)*

Arrest evidence held in PSE# C622699.

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
[signature]	[redacted]	[signature]	

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY: Rank Name Command

Property Clerk's Signature

N 672113

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev 5/01)-Pent

Check only one of the below categories.

N 672110

- ☒ ARREST EVIDENCE
- ☐ INVESTIGATORY
- ☐ DECEDENT'S PROPERTY
- ☐ PEDDLER PROPERTY
- ☐ FOUND PROPERTY
- ☐ OTHER

DATE PREPARED: 5-19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
Maier	PO	[redacted]	[redacted]	046

Prisoner's Last Name, First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
Borbon, Raul N.	38	598 W. 191 St Ny NY #45	1	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.O.	Viol.	Complaint No.
5-18-07	B07640198H	CPW CPM	☒	☐	☐	☐	06459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
Lt. McMahon	2120 Ryer Ave BX NY	

Owner's Name (See Instructions)	Address (Include City, State, Zip Code, Apt.)	Telephone No.
Borbon, Raul N.	598 W. 191 St NY NY apt #45	

Complainant's Name	Address (Include City, State, Zip Code, Apt.)	Telephone No.
PSNY		

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only		DISPOSITION AND DATE (For Property Clerk's Use Only)
01	1	a black xxx .22 caliber firearm			
02	1	live .22 cal round from chamber of item #01			
03	1	black magazine for item # 01			
04	5	five live .22 cal rounds recovered from black plastic bag			
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX					
XXXXAbove is complete list of items voucheredXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX					
		TOTAL			

Additional Invoice Nos. Related to This Case Including Motor Vehicles
N672112, N672113, N672114, N672115

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time

Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY).*

Arrest evidence held in PSE#E759479.

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
Lt [signature]	[redacted]	[signature]	

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY:	Rank	Name	Command

Property Clerk's Signature

N 672110

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev. 5/01)-Pcnt

Check only one of the below categories.

N 672123

☐ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☒ OTHER

DATE PREPARED: 5/19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
maier	po	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
borbon	raul	38	2244 creston ave, bx, ny 6b	02	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel	Misd.	J.D.	Viol.	Complaint No.
5/18/07	40198	cpw/cpm	☒	☐	☐	☐	6459

Finder of Property: maier	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.
Owner's Name (See Instructions): borbon raul	Address (Include City, State, Zip Code, Apt.): 2244 creston ave, bx, ny 6b	Telephone No.
Complainant's Name: psny	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	01	cell phone		
02	01	cell phone battery		
03	01	black gshock watch		
04	01	black wallet		
05	10	assorted papers		
06	01	keychain w/18 keys		
07	01	keychain w/18 keys		
08	01	envelope containing assorted credit cards & papers		
		xxxxxxxabove is a complete list of property voucheredxxxxxxx		
		TOTAL		

Additional Invoice Nos. Related to This Case including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see Instructions on BACK OF BLUE COPY).*

pse # e759131

Rank and Signature of Desk Officer | Tax No. [redacted] | Signature of Arresting/Assigned Officer | Boro Storage No.

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY | Rank | Name | Command

Property Clerk's Signature

N 672123

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev. 5/01)-Pent

Check only one of the below categories.

N 672114

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 05/19/07 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
maier, k	p.o.	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
borbon, raul		38	i/o 2244 creston ave # 6B	01	

Date of Arrest	Arrest No	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
05/18/07	40198M	p.l. 221.25	☒	☒	☐	☐	6459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
maier, k	2120 ryer ave	7182205211
Owner's Name (See Instructions)	Address (Include City, State, Zip Code, Apt.)	Telephone No.
borbon, raul	2244 creston ave # 6B	
Complainant's Name	Address (Include City, State, Zip Code, Apt.)	Telephone No.
PSNY		

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	01	blue vest carrier		
02	01	gun cleaning kit		
03	01	bundle of mylar planting bags		
04	02	pieces deft mail		
05	01	deft passport # 002332741-99		
06	01	deft resident alien card # A31039321		
xxxxxxxxxxxxxxxxxxxxxxxxxx		above is a complete list of all items to be voucheredddddddddddxxxxxxxxxxxxx		
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time

Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY).*

arrest evidence pse # C622700

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
L.T. [signature]	[redacted]	[signature]	

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY.

Rank	Name	Command

Property Clerk's Signature

N 672114

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev. 5/01)-Pent

Check only one of the below categories.

N 672120

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 5/19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
maier	po	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
barbon	raul	38	2244 creston ave, bx, ny 6b	02	

Date of Arrest	Arrest No	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
5/18/07	40198	cpw/cpm	x				5459

Finder of Property: maier	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.
Owner's Name (See Instructions): barbon raul	Address (Include City, State, Zip Code, Apt.): 2244 creston ave, bx, ny 6b	Telephone No.
Complainant's Name: nypd	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	02	4" in-line duct fan		
02	01	large buch mylar planting holder		
03	02	garden shears		
04	15	assorted mail and paperwork/shipping receipts		
05	01	ziplock bag containing smaller ziplock bags		
06	02	instructional books for growing marijuana		
		xxxxxxxxxxabove is a complete list of proeprty voucheredxxxxxxxxx		
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time

Property Clerk Storage Location

REMARKS. *Briefly explain why the property was taken into custody (see instructions on* BACK OF BLUE COPY).

pse # c622797

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
[redacted]	[redacted]		

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY.	Rank	Name	Command
Property Clerk's Signature			

N 672120

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev. 5/01)-Pent

N 672121

Check only one of the below categories.

☑ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 5/19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
maier	02	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
borbon	raul	38	2244 creston ave bx, ny 6b	02	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
5/18/07	40198	cpw/cpm	☑	☐	☐	☐	6459

Finder of Property	Address (Include City, State, Zip Code, Apt.)	Telephone No.
maier	n/a	

Owner's Name (See Instructions)	Address (Include City, State, Zip Code, Apt.)	Telephone No.
borbon raul	2244 creston ave, bx,ny 6b	

Complainant's Name	Address (Include City, State, Zip Code, Apt.)	Telephone No.
nsny	n/a	

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	01	hydrofarm electronic ballast seal # 0942769		
02	01	hydrofarm electronic ballast seal # 0942783		
03	01	hydrofarm electronic ballast seal # 0942728		
04	01	hydrofarm electronic ballast seal # 0942730		
05	01	hydrofarm electronic ballast seal # 0942771		
06	01	hydrofarm electronic ballast seal # 0942747		
		xxxxxxxxxabove is a complete list of property voucheredxxxxxxx		
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O.	Owner/Claimant's Signature	Date	Time	Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on BACK OF BLUE COPY).*

peddler seal # 0942769/83/28/30/71/47

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
[redacted]	[redacted]		

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY.	Rank	Name	Command
Property Clerk's Signature			

N 672121

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy

PROPERTY CLERK'S INVOICE

PD 521-141 (Rev. 5/01)-Pcnt

Check only one of the below categories.

N 672122

☒ ARREST EVIDENCE ☐ DECEDENT'S PROPERTY ☐ FOUND PROPERTY

☐ INVESTIGATORY ☐ PEDDLER PROPERTY ☐ OTHER

DATE PREPARED: 5/19 YR 2007 PCT. 046

Arresting/Assigned Officer	Rank	Shield No.	Tax Reg. No.	Command
maier	po	[redacted]	[redacted]	046

Prisoner's Last Name	First	Age	Address (Include City, State, Zip Code, Apt.)	No. of Prisoners	Acc./Aided #
borbon	raul	38	2244 creston ave bx, ny 6b	02	

Date of Arrest	Arrest No.	Charge/Offense Under Investigation	Fel.	Misd.	J.D.	Viol.	Complaint No.
5/18/07	40198	cpw/cpm	☒	☐	☐	☐	6459

Finder of Property: maier	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.
Owner's Name (See Instructions): borbon raul	Address (Include City, State, Zip Code, Apt.): 2244 creston ave, bx,ny 6b	Telephone No.
Complainant's Name: nsny	Address (Include City, State, Zip Code, Apt.): n/a	Telephone No.

ITEM NO.	QUANTITY	ARTICLE	CASH VALUE U.S. Currency Only	(For Property Clerk's Use Only) DISPOSITION AND DATE
01	01	white hall lighting technologies lamp seal # 0942725		
02	01	white hall lighting technologies lamp seal # 0942752		
03	01	white hall lighting technologies lamp seal # 0942779		
04	01	white hall lighting technologies lamp seal # 0942736		
05	01	white hall lighting technologies lamp seal #s 0942760		
06	01	white hall lighting technologies lamp seal # 0942715		
		xxxxxxxxxabove is a complete list of property voucheredxxxxxxx		
		TOTAL		

Additional Invoice Nos. Related to This Case Including Motor Vehicles

Pink Receipt Copy of Voucher Issued ☐ Yes ☐ Refused

R.T.O. Owner/Claimant's Signature Date Time Property Clerk Storage Location

REMARKS: *Briefly explain why the property was taken into custody (see instructions on* BACK OF BLUE COPY).

peddler seal # 0942725/52/79/60/36/15

Rank and Signature of Desk Officer	Tax No.	Signature of Arresting/Assigned Officer	Boro Storage No.
[redacted]	[redacted]	[redacted]	

PROPERTY ON THIS VOUCHER DELIVERED TO PROPERTY CLERK'S OFFICE BY: Rank Name Command

Property Clerk's Signature

N 672122

DISTRIBUTION: WHITE - Prop. Clk. File SECOND WHITE - Inventory Unit Copy YELLOW - Prop. Clk. Work Copy
BLUE - Police Officer's Copy GREEN - Evidence Release/Investigation Copy PINK - Prisoner/Finder Receipt Copy